Supreme Court, U.S.
FILED
OCT 30 1996
CLERK

(2)

Case Number: 96-501

SUPREME COURT OF THE UNITED STATES
October, 1996-1997 Term

Franklin V. Anderson, Petitioner, Pro Se
v.
State of Mississippi, The Mississippi Bar
a.k.a. The Mississippi State Bar
and South Mississippi Electric Power
Association, a federally financed
electric cooperative,
Respondents

Petition for Writ of Certiorari to the
Supreme Court of Mississippi

# BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

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57 pp

## QUESTIONS PRESENTED

(1) Is there jurisdiction for this Court's intervention in Mississippi's attorney disciplinary process regarding suits against complaining parties?

(2) Is Petitioner a "federal witness", "officer" or "juror" subject to the protection of 18 U.S.C. Section 1503?

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## REFERENCE TO PUBLISHED OPINIONS

To the Respondent's knowledge, information and belief there have been no published opinions in this case. The Clerk of the Mississippi Supreme Court has stated to Petitioner there will be no publication in the Southern 2d Reporter, which is the official reporter, for the opinion included herein.

## STATEMENT OF JURISDICTION

There is no jurisdiction in this Court to review the decision of the Mississippi Supreme Court that, under the facts in this case, Petitioner may not bring a tort claim against a party who made a bar complaint against him.

## STATUTORY PROVISIONS

18 U.S.C. § 1503 (as amended 9-13-94).
Influencing or injuring officer or juror generally.
(set out in Petitioner's Petition for Writ of Certiorari)

28 U.S.C. § 1257(3) (as amended 6-27-88).
State courts; appeal; certiorari.

Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court as follows:

(3) By writ of certiorari, where the validity of a treaty or statute of the United States is drawn in question or where the validity of a State statute is drawn in question on the ground of its being repugnant to the Constitution, treaties or laws of the United States, or where any title, right, privilege or immunity is specially set up or claimed under the Constitution, treaties or statutes of, or commission held or authority exercised under, the United States.

## Reply to Petitioner's Statement of Facts and Procedural Background

Respondent, South Mississippi Electric Power Association (hereinafter referred to as "SMEPA"), pursuant to Rule 15 of the Rules of the Supreme Court of the United States, identifies the following factual misstatements or omissions of material facts. Petitioner, while employed as an attorney at SMEPA, had no responsibility for negotiating or supervision of SMEPA's fuel purchases, including the contract with Sandy Fork Mining. Nonetheless, Petitioner and internal auditor Dennis Johnson widely dispensed their interpretations as to the legality and fairness of the coal contract. To address the issues raised by Petitioner and Johnson, SMEPA's board of directors hired an audit firm in Lexington, Kentucky, with experience in coal contracts. Later, counsel for Respondent SMEPA was hired to review the legal issues. General Manager George Taylor retired; Henry Thomas replaced him.

It was the opinion of the Kentucky auditing firm, and special counsel for SMEPA, that the issues raised by Petitioner and Johnson were not legally

or factually valid. The audit firm did discover other issues relating to Sandy Fork's mining of SMEPA's coal property, and contract overcharges, not identified by Anderson or Johnson. Unhappy that his allegations were not given the attention he felt they merited, Johnson requested a meeting with a committee of the board of directors. After reviewing Johnson's allegations, the auditor's findings, and the contract, SMEPA's board approved filing suit based on the auditor's findings, but not Johnson's allegations. Johnson resigned and found other work. Anderson began a series of suits against SMEPA and other entities. Despite his claims having been twice dismissed on the merits, and long since time barred, he now seeks authority to file suit for SMEPA's general manager testifying under subpoena, at a bar investigatory hearing.

SMEPA's suit against Sandy Fork Mining was filed in the United States District Court for the Southern District of Mississippi. In response to a motion to transfer, SMEPA listed the names of all possible witnesses, including Anderson and Johnson. Neither was called as a witness at the trial or even deposed

during discovery. This affidavit is the basis for Anderson claiming the protection of a "federal witness". Anderson misunderstands or misstates his importance. Attorneys for Sandy Fork Mining were aware of his existence but never indicated any inclination to call him as a witness, or even interview him.[1]

Anderson's first suit was filed in the Circuit Court of Forrest County, Mississippi. Though he had no responsibility for fuel contracts, he related his termination[2] to matters

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[1]Within the meaning of 18 U.S.C. § 1503 a witness is one who knows, or is supposed to know, material facts and is expected to testify to them or to be called as a witness to so testify. United States v. Griffin, (1972, CA 10 Kan.), 463 F.2d 177, cert. den. (1972), 409 U.S. 988, 34 L.Ed.2d 254, 93 S.Ct. 344.

[2]18 U.S.C. § 1503 was enacted for protection of the public and created no cause of action in favor of an individual who claims to be damaged by its violation. Mainelli v. Providence Journal Co., 207 F. Supp. 453 (1962 D.C. R.I.), affirmed in part and vacated in part on other grounds, 2 F.2d 3. See also O'Dell v. Humble Oil & Refining Co., 201 F.2d 123 (10 Cir. 1953).

dealing with the coal contract, and attached as exhibits various memos and documents he had copied and taken with him, without permission, when he left his employment. This suit was the first knowledge SMEPA had of Petitioner's possession of these documents[3]. SMEPA sought and received an injunction sealing the documents, and filed a bar complaint. Anderson eventually decided to drop his suit, and it was dismissed with prejudice. Anderson requested that SMEPA withdraw the bar complaint, but SMEPA advised it had no authority over the disciplinary process. Anderson then signed a covenant not to sue as to all claims against SMEPA. During the time the Formal Complaint was pending, Anderson filed a Motion for Writ of Prohibition in the Mississippi Supreme Court. That was overruled on April 29, 1987, without entry of an opinion.

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[3]Justice C. R. McRae's Statement on Order (Appendix 3 to Petition) is in error as to SMEPA waiting three years after knowledge of the theft to file the bar Complaint. As SMEPA was not a party to Petition of Attorney GG for Right to File a Civil Suit, it could not respond in that action to Anderson's factual misstatements.

Anderson also sent an ex parte injunction order to Judge Siler, the federal judge handling the Sandy Fork litigation in Kentucky. Without notice or a hearing, Judge Siler entered the injunction against the Mississippi Bar. The Sandy Fork case was ultimately settled on terms favorable to SMEPA, and the order regarding Anderson dissolved.

The Committee on Complaints determined there was probable cause to believe Anderson was guilty of such conduct which, if proven, would warrant the imposition of discipline, and directed the general counsel of the Mississippi State Bar to file a Formal Complaint against Anderson. That Complaint was ultimately dismissed by the Complaint Tribunal (Appendix 39 to Petition).

Despite the earlier voluntary dismissal of his case, and covenant not to sue, Anderson again filed suit against SMEPA and others in the United States District Court for the Northern District of Alabama. His Complaint is attached as Appendix 1. The Alabama court dismissed one defendant, and transferred the rest of the case to the Southern District of

Mississippi.[4] Following discovery, Anderson's suit was again dismissed with prejudice.[5] The Court ruled that the only action by SMEPA which was not barred by Res Judicata was SMEPA's general manager testifying, under subpoena, at the investigatory hearing in 1987. Anderson did not appeal the dismissal. SMEPA took no further action in the State Bar disciplinary proceeding.

ARGUMENT AS TO JURISDICTION

Petitioner Anderson has taken his allegations concerning wrongdoing to the United States Attorney for the Southern District of Mississippi, the F.B.I., the Rural Electrification Administration[6], and the United States Attorney for the Northern District of Alabama (deposition excerpts of Anderson deposition attached as Appendix 38). No one has deemed the complaints of sufficient credibility to take any action regarding SMEPA or any of the individuals named in Anderson's many complaints. Anderson is not, and never

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[4]Order attached as Appendix 37.

[5]Appendix 42 to Petition.

[6]Now the Rural Utilities Service.

has been, a federal witness or officer as contemplated by 18 U.S.C. Section 1503, and has no more protection than any other Mississippi employee terminated in 1983.

This action by Anderson is to enable him to pursue a state cause of action against a client who filed a bar complaint and was subpoenaed to appear at its investigatory hearing. The Mississippi Bar disciplinary procedures and immunities are creatures of the Mississippi Supreme Court, acting as ultimate arbiter over the conduct of the members of the Mississippi bar. There are no issues giving rise to this Court's jurisdiction[7] to intervene in this

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[7] In Layne & Bowler Corp. v. Western Well Works, Inc., (1923), 43 S. Ct. 422, 423-424, 261 U.S. 387, 392-393, 67 L.Ed. 712; the U.S. Supreme Court, rather than decide the merits of the case, dismissed the writ of certiorari. Chief Justice Taft explained, "It is very important that we be consistent in not granting the writ of certiorari except in cases involving principles the settlement of which is of importance to the public as distinguished from that of the parties, and in cases where there is a real and embarrassing conflict of opinion and authority between the circuit courts of appeal."

dispute. The Mississippi Supreme Court's decision should be final, and not subject to review by this Court absent some provable constitutional violation, and none exists.

## CONCLUSION

The Petitioner cannot show jurisdiction under 28 U.S.C. Section 1257(3) for not being allowed to sue someone who testified at his state bar investigatory hearing ten years ago. The Petition should be denied.

Dated, this the 30th day of October, 1996.

Respectfully submitted,

SOUTH MISSISSIPPI ELECTRIC POWER ASSOCIATION

BY: Its Attorneys

COMPTON, CROWELL AND HEWITT, P.L.L.C.

BY: _____
JAMES N. COMPTON

IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

Civil Action No. CV-93-P-0093-S

| | |
|---|---|
| Franklin V. Anderson, an individual, Plaintiff, | ) |
| vs. | ) |
| AETNA Insurance Company, a corporation; South Mississippi Electric Power Association, a corporation; Dixie Electric Power Association, a corporation; and The Mississippi Bar, a quasi-agency of the Supreme Court of the State of Mississippi; Defendants. | ) |

VERIFIED COMPLAINT
JURY TRIAL DEMANDED

COMES NOW THE PLAINTIFF, Franklin V. Anderson, pro se, who seeks relief against the defendants jointly and severally for violation of the following statutes:

a. 42 U.S.C. section 1983, Violation of Civil Rights Under Color of State Law.
b. 42 U.S.C. section 1985(3) Conspiracy to Violate Civil Rights.
c. 15 U.S.C. section 1, Sherman Anti-Trust Act Conspiracy in Restraint of Trade.
d. 18 U.S.C. section 1964 Civil Relief from a Racketeer Influenced Corrupt Organization (RICO) based on the following predicate acts committed by the Defendants:

i. 18 U.S.C. section 1341 Mail Fraud;
ii. 18 U.S.C. section 1343 Wire Fraud;
iii. 18 U.S.C. section 1503 Obstruction of Justice;
iv. 18 U.S.C. section 1951 Hobbs Act Extortion Affecting Interstate Commerce and Involving Public Officials of the Mississippi Bar.
v. 18 U.S.C. section 1951 Hobbs Act Conspiracy Affecting Interstate Commerce and Involving Public Officials of the Mississippi Bar.

JURISDICTION

1. Federal Courts have jurisdiction over these claims under 28 U.S.C. section 1331(a), Federal Question, and 28 U.S.C. sections 1343(a)(1)-(4) Civil Rights.

VENUE

2. Venue is proper in this Court under 28 U.S.C. section 1391(c) and 18 U.S.C. section 1964(c), because of the presence of both the Plaintiff and Defendants in Alabama.

PARTIES

3. Plaintiff Franklin V. Anderson is an adult resident of Jefferson County, Alabama, located in the Northern District of Alabama, Southern Division.

4. Defendant Aetna Insurance Company is a corporation licensed to do business and doing business in Alabama which participated in, and received benefit from, the conspiracy of the other parties defendant herein.

5. Defendant South Mississippi Electric Power Association (SMEPA), headquartered in Hattiesburg, Mississippi is a corporation engaged in generation and transmission of electricity, doing

business in Alabama, and routinely sending representatives into Alabama.

6. Defendant SMEPA is a "person" defined by Alabama Rules of Civil Procedure (ARCP) Rule 4.2(a)(3), transacting business in Alabama, as contemplated under ARCP Rule 4.2(a)(2)(A), and which contracts to deliver goods and services in Alabama, to-wit: wholesale electric power, as contemplated under ARCP Rule 4.2(a)(2)(B), and which caused tortious injury, to the Plaintiff, in Alabama, by acts of a person who regularly does or solicits business, or engages in any other persistent course of conduct or derives substantial revenue from goods used or consumed or services rendered in Alabama as contemplated by ARCP Rule 4.2(a)(2)(D).

7. Defendant Dixie Electric Power Association (Dixie), headquartered in Laurel, Mississippi, is an electric distribution cooperative receiving wholesale electricity from SMEPA and transmitting the same into Alabama, serving customers, collecting money, maintaining facilities and doing business in Alabama.

8. Defendant Dixie is a "person" defined by ARCP Rule 4.2(a)(3), transacting business in Alabama, as contemplated under ARCP Rule 4.2(a)(2)(A), and which contracts to deliver goods and services in Alabama, to-wit: retail electric power, as contemplated under ARCP Rule 4.2(a)(2)(B), and which caused tortious injury, to the Plaintiff, in Alabama by acts of a person who regularly does or solicits business, or engages in any other persistent course of conduct or derives substantial revenue from goods

used or consumed or services rendered in this Alabama as contemplated by ARCP Rule 4.2(a)(2)(D).

9. Defendant Mississippi Bar, also known as the Mississippi State Bar, is a quasi-agency of the Supreme Court of the State of Mississippi regularly collecting dues and exercising disciplinary authority, in Alabama, over approximately 87 actively licensed lawyers and an unknown number of other lawyers, including the Plaintiff, who are inactive in Mississippi and reside in Alabama. Defendant Mississippi Bar officially participated in a conspiracy to violate the Plaintiff's civil rights and force the Plaintiff from the practice of law in violation of the Sherman Anti-Trust Act. This Defendant is served under Rule 4 of the Federal Rules of Civil Procedure and Rules 4(c)(13) and 4.2 ARCP.

NON-PARTY CO-CONSPIRATORS

10. Bill M. Taylor is a federal agent who, in that capacity, violated the Plaintiff's Fourth Amendment Rights by obtaining information from the Plaintiff and failing to transmit said information to his lawful superiors in the Rural Electrification Administration, (REA) of the United States Department of Agriculture, and instead joined and acted in the conspiracy of the other parties defendant herein.

11. James F. Hughes is a former federal agent who, while he was a federal agent, violated the Plaintiff's Fourth Amendment Rights by obtaining information and documents from Plaintiff and failing to transmit said information and documents to his lawful superiors in REA, and instead joined and acted in the conspiracy of the other parties defendant herein.

FACTS

12. The Plaintiff was employed as Staff Attorney, with all rights and benefits afforded to all employees under the Policy Manual of South Mississippi Electric Power Association (SMEPA) from approximately November 17, 1980 to December 31, 1983.

13. Said Policy Manual specifically stated SMEPA's commitment that Plaintiff would not be terminated in the absence of "just cause"; and included in the duly adopted definition of "just cause" was "the failure of the employee to abide by applicable law or professional standards", thus creating a contractual property right of the Plaintiff protected under the Fifth Amendment of the United States Constitution.

14. On or about September 3, 1982, the Plaintiff was informed by SMEPA's Internal Auditor, Dennis Johnson, that significant audit issues, relating to excessive payments under a coal supply contract and the absence of proper independent controls over SMEPA property, had been ordered concealed, by the General Manager, George Taylor, in violation of the generally accepted professional standards of the American Institute of Certified Public Accountants and the Institute of Internal Auditors.

15. Based on the Plaintiff's nine years of experience and information obtained from July 2, 1973 to September 3, 1982, regarding George Taylor, such an order was consistent with Taylor's personal habit and SMEPA's routine managerial practice of improperly influencing and directing professional employees in the performance of their duties.

16. SMEPA and Dixie are federally financed electric cooperatives which are mortgaged to and regulated by the Rural Electrification Administration, (REA) of the United States Department of Agriculture.

17. As part of the routine regulatory process, all books of account, records and memoranda of SMEPA are open to inspection and copying by federal representatives, and periodic reports are made, by SMEPA, regarding its financial condition, operations and obligations to REA through the United States Mail and over interstate telephone facilities.

18. As part of the routine regulatory process, federal agents employed by REA review SMEPA's internal audit reports and receive information from numerous cooperative employees including internal auditors, such as Dennis Johnson.

19. On or about September 2, 1982, Dennis Johnson was ordered by George Taylor, General Manager of SMEPA, to remove five paragraphs from a memorandum which described Johnson's initial visit and observations to the offices and operations of the Sandy Fork Mining Company (herein Sandy Fork or SFM). Said five paragraphs read in their entirety:

> "It is believed that SMEPA's position is not as strong as it should be in this contract. In essence, we have agreed to have SFM mine a large quantity of our coal annually at a price which escalates with various inflation factors and other specific increases. We are now paying 25% more than the current spot market price of coal and 10% more than the average long term contract price for coal. It is believed that this difference is more likely to increase than decrease

over the remaining 15 contract years. One possible method of reducing the effects of this price difference would have been to have included a ceiling on the price SMEPA pays, such as a phrase in the contract similar to this:

> 'In no event will the price SMEPA pays SFM exceed 125% of that quarter's average spot market price for equivalent quality coal from this region.'

"Another method would have been to request a much lower minimum quantity established annually by SMEPA at least 3 months prior to the beginning of each year with the option of increasing this amount 50% during the year. SFM would staff and equip their operation to produce in this range. Once the minimum quantity of coal from SFM has been received, SMEPA would have the option of entering the spot market or requesting additional quantities from SFM.

"SMF has little risk involved in this long term contract and is almost guaranteed high profits. After what is believed to be good bonuses to top SFM officers and company contributions of $470,000 and $325,000 in 1981 and 1980 to an employee profit sharing plan, income before income taxes increased 156% in 1980 and 48% in 1981 to $4,109,617. Also SFM pays Garland Coal a sales commission on coal sold to SMEPA at a rate determined annually based on the profit per ton. This flexible rate is a convenient method of moving profit from SFM to Garland Coal and SFM is definitely concerned about looking too profitable. The annual report for 1982 should be published by December, 1982. If SFM

continues to show significant increases in profit during this bad year for coal mining companies, it will confirm the belief that SMEPA has given away too much in this contract and subsequent amendments.

"Allowing SFM to sell SMEPA's deep mined coal to third parties should be discontinued. SMEPA doesn't have on-the-site monitoring capabilities to determine if such activities are handled properly and the unnecessary depletion of SMEPA's reserves is not in the best interest of SMEPA's long term needs."

20. At all times relevant to this action, SMEPA owned or had the mineral rights to approximately 17,000 acres of land in Kentucky. Said land and mineral rights were leased to Sandy Fork which mined coal from this land and elsewhere and sold the said coal to SMEPA and others.

21. All contracts and amendments thereto, between SMEPA and Sandy Fork, were presented either by personal delivery or through the United States Mail to REA for its review, critique and approval.

22. A material part of the objectives included in the regulatory function performed by REA employees was to provide some assurance that contract terms were reasonable and followed during the period of performance.

23. All representations contained within those documents constitute material facts to an agency of the federal government for the purpose of performing its statutory duties, and are thereby made subject to criminal penalties under 18 U.S.C. section 1001.

24. The five paragraphs ordered removed from Dennis Johnson's September, 1982, memorandum questioned the reasonableness and propriety of the contracts between SMEPA and Sandy Fork. These questions ultimately resulted in a December, 1985, lawsuit by SMEPA claiming $80,000,000 damages from Sandy Fork and the termination of the contracts between those parties.

25. On or about September 3, 1982, and subsequently, the Plaintiff counseled Johnson to refrain from concealing any material information in his audit reports.

26. On or about September 3, 1982, and subsequently, the Plaintiff counseled SMEPA's General Manager, George Taylor, to refrain from endeavoring to conceal any material information from, or to supply misleading information to, REA by influencing Dennis Johnson in the performance of his professional duties.

27. George Taylor admitted his efforts to control Johnson's reports and demanded that the Plaintiff join and participate in those efforts on or about September 3, 1982, and again on February 16, 1983, and again on numerous other occasions.

28. Under 18 U.S.C. section 1001, any endeavor to either conceal material information or to mislead a federal agency is unlawful, whether or not successful.

29. The information which George Taylor endeavored to conceal was material because it described conflicts of interest and lack of control over a contract of more than 20 years duration and governing an annual expenditure of approximately $35,000,000 in 1982.

30. Under 18 U.S.C. section 1505 intimidation of a person who possesses material information and who either

intends, desires, does, or is expected to communicate that information to a federal regulatory agency, in the normal and routine conduct of its duties, is an unlawful obstruction of justice.

31. Dennis Johnson possessed material information and therefore, was such a person within the protection of 18 U.S.C. section 1505.

32. Under Code of Professional Responsibility DR 7-109, adopted and in effect in Mississippi while the Plaintiff was employed as SMEPA's attorney, the Plaintiff was subject to discipline if he participated in procuring the silence of Dennis Johnson as a potential witness in a federal regulatory process.

33. Under Code of Professional Responsibility DR 7-102, adopted and in effect in Mississippi while the Plaintiff was employed as SMEPA's attorney, the Plaintiff was subject to discipline if he aided, in any manner, unlawful conduct.

34. Under Code of Professional Responsibility DR 5-107, and EC 5-18, adopted and in effect in Mississippi while the Plaintiff was employed as SMEPA's attorney, the Plaintiff was subject to discipline if he failed to exercise his independent professional judgment by aiding and abetting other corporate employees engaging in misconduct.

35. Under Code of Professional Responsibility DR 7-102(b)(1), adopted and in effect in Mississippi while the Plaintiff was employed as SMEPA's attorney, and which section was modified for adoption in Mississippi, from the American Bar Association's Model Code of Professional Responsibility by deleting the phrase "except when the information is protected as a privileged

communication," the Plaintiff was subject to discipline if he failed to reveal his client's ongoing, or planned, fraud to the affected person or tribunal, which parties in this case were Dennis Johnson, the affected person, and REA, the affected tribunal.

36. Under Code of Professional Responsibility DR 7-102(b)(2), adopted and in effect in Mississippi while the Plaintiff was employed as SMEPA's attorney, the Plaintiff was subject to discipline if he failed to reveal a non-client's fraud to the affected tribunal, said non-client being any corporate agent acting in hostility to his corporate duties, and the affected tribunal being REA.

37. Under 18 U.S.C. section 1341 any use of the United States Mail in furtherance of a fraudulent transaction is unlawful whether or not the communication itself is fraudulent.

38. The communications made by SMEPA, to REA, regarding the various contracts and reports which aided in concealing information or misleading the oversight process were unlawful under 18 U.S.C. section 1341.

39. Under 18 U.S.C. section 1343 any use of interstate telephone facilities in furtherance of a fraudulent transaction is unlawful whether or not the communication itself is fraudulent.

40. The communications made by SMEPA, to REA, which occurred routinely as part of the oversight process and which aided in concealing information or misleading the oversight process were unlawful.

41. Under Section 79-1-9 of the Mississippi Code Annotated and Section 191 of the Mississippi Constitution of 1890, adopted and in effect during the

term of the Plaintiff's employment with SMEPA and Dixie, it is unlawful, in Mississippi, for a corporation to interfere with the civil, political or social rights of its employees.

42. Defendant SMEPA endeavored, through its agents, officers, directors and employees to violate Dennis Johnson's rights of free speech by inhibiting his reporting of his observations and professional opinions. SMEPA also violated Johnson's right to engage in a lawful profession by interfering with his independent professional judgment contrary to the requirements of his professional license, and his right to communicate with proper law enforcement authority regarding his observations, opinions and experience of improper intimidation.

43. The Plaintiff had a legal and ethical duty to refrain from aiding SMEPA in violating Johnson's rights and interfering with his duties.

44. The Plaintiff was ordered, by George Taylor, General Manager of SMEPA, to procure the silence of Dennis Johnson, on or about Friday, September 3, 1982, and again at approximately 5:00 P.M. CST, February 16, 1983.

45. During the period from September 3, 1982 to January 18, 1983, which ended the Tuesday before the Wednesday, January 19, 1983, meeting of the SMEPA Board of Directors, Dennis Johnson reviewed the available accounting records in Hattiesburg, MS. He also returned to the Tennessee and Kentucky offices of Sandy Fork for the purpose of further review and preparation of a memorandum dated January 19, 1983, which the Plaintiff edited and typed for Johnson.

46. Said memorandum consists of approximately 10 pages of text with another approximately 20 pages of exhibits which show salary information for Sandy Fork managers and employees, and exposing nepotism, excessive salaries, and conflicts of interest. The exhibits also contained profit information illustrating that Sandy Fork's estimated true profit, based on generally accepted accounting principals, increased from $2.76 per ton to $7.71 per ton from 1980 to 1982.

47. Sandy Fork's profit was represented to REA, for approval, as a non-escalating (constant) $2.74 per ton in Amendment 5 to the Coal Contract, which was approved by REA in 1980.

48. On January 18, 1983, the Plaintiff hand delivered a copy of the Dennis Johnson memorandum "dated January 19, 1983" to Jack Ware, General Manager of Singing River Electric Power Association, headquartered in Lucedale, MS, and who was also a Director of SMEPA.

49. The Plaintiff informed Ware of the ongoing efforts of George Taylor to influence Dennis Johnson into concealing the obvious improprieties regarding the coal contracts. Ware made copies of said memorandum and distributed them to REA representative James F. Hughes and six other manager/directors of SMEPA.

50. On January 18, 1983, Dennis Johnson delivered to the office of George Taylor his memorandum "dated January 19, 1983". Said memorandum was returned to Johnson, undistributed, with orders to conceal material information.

51. George Taylor's orders for concealment resulted in a subsequent memorandum prepared in defiance of said orders, dated January 26, 1983, which

stated substantially the same information and conclusions.

52. Said memorandum, dated January 26, was distributed at the February 16, 1983 SMEPA Board meeting, by George Taylor, who expressed disapproval of the report and unsuccessfully sought permission from the Board of Directors to fire Dennis Johnson.

53. Shortly after 5:00 P.M. CST, February 16, 1983, George Taylor met with the Plaintiff in the General Manager's office and stated: "You're either on my team, or I don't need you. I'll settle with Dennis [Johnson] later."

54. In August, 1983, the Plaintiff's office was relocated, at the direction of George Taylor, and the Plaintiff's telephone was "bugged" by connection to the dictation machine located in the office of SMEPA's Manager of Finance.

55. Said connection, for the unauthorized and improper monitoring of the Plaintiff's telephone, while he served as a corporate attorney, violated the Plaintiff's professional independence and waived any attorney-client relationship which may have existed at that time.

56. On September 22, 1983, the Plaintiff explained his views of the application of Section 79-1-9, of the Mississippi Code Annotated, Section 191 of the Mississippi Constitution and Kelly v. Mississippi Valley Gas Company, 397 So.2d 874 (Miss. 1981), George Taylor stated, in the presence of the Plaintiff, Marcus Ware, SMEPA's Manager of Production, and James Anderson, Esq., an attorney for AETNA, that: "I would fire any supervisor who could not get rid of an employee

regardless of his civil, political or social rights!"

57. Subsequent to that September 22, 1983 meeting, the Plaintiff discussed all of the preceding events with REA auditor Bill M. Taylor who referred the Plaintiff to REA representative James F. Hughes.

58. In October, 1983, the Plaintiff received an increase in salary from approximately $38,000 per year to $40,425. On or about the Wednesday before the first Monday of November, 1983, the Plaintiff was visited by Rex Kelly, Assistant to the General Manager of SMEPA, who asked the Plaintiff: "What's it going to take to get you on the team; Anything you want, anything at all!". The Plaintiff declined the offer, which Kelly made on behalf of George Taylor. The following [first] Monday, George Taylor summoned the Plaintiff and told him he was relieved of legal duties and fired without specifying a particular date for departure. A week later, George Taylor informed the Plaintiff of his departure date by joyously starting the conversation with the words: "Let's pick a time."

59. Upon being informed of the Plaintiff's termination, in November, 1983, James F. Hughes arranged a meeting between the Plaintiff and Henry L. Thomas, General Manager of Coast Electric Power Association (CEPA), headquartered in Bay St. Louis, MS., which is also an owning member of SMEPA. Thomas served as ex-officio director of SMEPA, and replaced George Taylor as General Manager of SMEPA in July, 1985. Said meeting occurred on a Saturday in late November or early December, 1983 prior to SMEPA's December, 1983, board meeting. Said meeting was held in CEPA's Gulfport

office and lasted approximately four hours, during which the Plaintiff described the sequence of events leading to the meeting, including the termination of his position as attorney.

60. Thomas asked the Plaintiff to obtain copies of certain routine inter-office memoranda from Dennis Johnson. Said memoranda were obtained and transmitted to Thomas and Hughes as requested. The Plaintiff retained copies of said memoranda to prevent loss or destruction of the information contained therein. Thomas stated his intention, as Chair of the Wage and Salary Committee, to seek severance pay for the Plaintiff and a letter of commendation to assist the Plaintiff in his search for new employment.

61. At the December, 1983, SMEPA board meeting, John Keyes, Esq., General Counsel of SMEPA, was directed to, and subsequently did, draft and transmit a letter of commendation of the Plaintiff, which directly evidences the bad faith involved in the Plaintiff's discharge through failure to state the true reason therefor, and leaving prospective employers to ask in effect: "Mr. Anderson, if SMEPA has all these legal problems which you have helped to handle, why is there no place for you on their staff?"

62. On January 16, 1984, the Plaintiff was employed as the supervising engineer for the engineering and technical service functions of Dixie Electric Power Association, with the job title of System Engineer.

63. The Plaintiff was warned, in an August, 1984 telephone call, in violation of 18 U.S.C. section 1343, a RICO predicate act, by Jack Ware, that the

Plaintiff's continued contact with James F. Hughes, Bill M. Taylor and Dennis Johnson would cause the Plaintiff to be fired in the event REA forced the removal of George Taylor. Ware stated that Dixie director L.G. Pierce, who also sat on SMEPA's board, was a strong friend of Taylor. Ware indicated that Pierce was subject to influence by others with the words: "L.G. Pierce hasn't had an original thought in his head."

64. In October, 1984, Bill M. Taylor asked the Plaintiff to meet with him and describe the problems the Plaintiff was familiar with at SMEPA. Taylor stated said information was needed for a delegation of REA officials who would attend the meeting of Electric Power Associations of Mississippi in Biloxi, MS. and there demand the removal of George Taylor.

65. According to William E. Davis, Director of Borrower Accounting, REA, Washington, D.C., immediate supervisor of Bill M. Taylor, none of the information provided to Hughes and Taylor by the Plaintiff and Dennis Johnson ever reached Washington officials until the Plaintiff sent it directly to Davis in April, 1989.

66. According to information given to the Plaintiff by James F. Hughes, during several telephone conversations in October, November and December, 1984, at a special meeting of the SMEPA board, certain unknown REA officials called for removal of George Taylor in October 1984. The Wednesday before Thanksgiving, at another SMEPA board meeting, an executive committee, including, among others, Henry Thomas, was appointed to remove and replace George Taylor. The Monday after Thanksgiving, 1984, the committee met with George Taylor and made

him caretaker until his replacement was found and approved.

67. The Thursday after Thanksgiving, 1984, the Dixie board ordered J.T. Dudley, Jr., General Manager of Dixie to fire the Plaintiff. That afternoon, after 5:00 P.M. CST, Dudley fired the Plaintiff with the words: "Let's pick a time," the exact words used by George Taylor to fire the Plaintiff a year earlier.

68. Since that meeting, at which the Plaintiff was fired, Dudley has given no less than six different and inconsistent explanations of the Plaintiff's termination, thus evidencing Dudley's bad faith and lack of truthfulness and veracity.

69. Dixie's General Counsel, Ernest Graves, Esq., was attending a convention of the Mississippi State Bar, as its President, on the date of the Dixie board meeting at which the Plaintiff's termination was ordered.

70. Taking Graves' place, at the Dixie board meeting, was his partner, William Mullins, Esq. The following Monday, the Plaintiff requested a meeting with Graves, for which Graves sought and received the permission of Dixie's General Manager. Upon receiving, at 9:00 A.M. CST, Tuesday, in Graves' conference room, the Plaintiff's account of his termination, Graves, the sitting President of the Mississippi State Bar, stated that:

a. The Plaintiff had not been employed by Dixie as an attorney and that no attorney-client relationship existed;
b. The Plaintiff had made many positive contributions to Dixie during his tenure; and

c. The Plaintiff's termination was not an accusation of wrongful conduct which required reporting to the Mississippi State Bar under DR1-103.

71. However, at the same meeting, Graves added: "If you want an investigation of this matter, I am sure one can be arranged, but it wouldn't do you any good." Under the circumstances, and from the Graves' demeanor, the Plaintiff understood the comment as a threat to remain silent and not make any complaint or otherwise cause any investigation of his terminations.

72. The Plaintiff was unable to obtain any employment from the time of his discharge, by Dixie, until Thursday, July 31, 1986, due to the adverse effect of the SMEPA and Dixie terminations on the Plaintiff's reputation and the references given prospective employers by Dixie and SMEPA employees and directors. Furthermore, through the date of filing of this cause, the Plaintiff has been unable to find permanent employment.

73. On June 12, 1986, the Plaintiff filed suit seeking recovery for violation of civil rights subsequent to his termination, stating his case of fraud and bad faith with particularity, as required by the Mississippi Rules of Civil Procedure, and attaching thereto copies of 13 routine inter-office documents and memoranda, as evidence, as permitted by the Mississippi Rules of Evidence, Rules 501 and 502, whether or not required by the Mississippi Rules of Civil Procedure.

74. On June 13, 1986, Henry L. Thomas, General Manager of SMEPA, executed, and Leslie Scott Sheffield, Esq., Counsel for SMEPA, served and caused to be filed, an

affidavit, before the United States District Court for the Eastern District of Kentucky, London Division, which stated that the Plaintiff was among a long list of persons who "will need to be called at the trial of this cause"; "this cause" being Civil Action 86-138, Sandy Fork v. SMEPA.

75. By so stating, SMEPA admitted the presence of ongoing fraud, for which no attorney-client privilege exists, and forever waived any attorney-client privilege if any ever did exist, under federal law.

76. Said designation is also a direct and prima facie admission of SMEPA's knowledge that the Plaintiff was a federal witness, before a United States District Court, and SMEPA's subsequent actions show its fraudulent intent to influence and control said testimony in violation of 18 U.S.C. section 1503, a predicate act for RICO.

77. Further, the same Henry L. Thomas executed and caused to be filed, in Hattiesburg, Mississippi, on or about June 27, 1986, essentially the same affidavit, before the United States District Court, Southern District of Mississippi, Hattiesburg Division, showing a continuing fraudulent plan and thereby demonstrating the absence of any mistake.

78. At approximately 8:00 A.M. CDT, June 16, 1986, an attorney for SMEPA called Noel P. Giuffrida, Esq., who was assisting the Plaintiff as co-counsel, and informed Mr. Giuffrida that, unless the Plaintiff withdrew his lawsuit and exhibits, a bar complaint would be filed against the Plaintiff.

79. Said telephone call of June 16, 1986, is unlawful as a communication,

over the interstate telephone system, in furtherance of a fraudulent purpose under 18 U.S.C. section 1343, and an extortion affecting interstate commerce under the Hobbs Act, 18 U.S.C. section 1951 et. seq., and evidences a conspiracy to violate the Hobbs Act, 18 U.S.C. section 1951 et. seq., all of which are predicate acts for RICO claims.

80. On June 16, 1986, one or more attorneys from the law firm of Bryan, Nelson, Allen, Schroeder and Randolph, of Hattiesburg, Mississippi, representing SMEPA, obtained an "ex parte" temporary restraining order, approximately four pages in length, finding that the Plaintiff had stolen client secrets by filing a lawsuit against his former corporate client and certain other persons.

81. On Tuesday, June 28, 1986, a hearing was held on SMEPA's motion for a preliminary injunction against the Plaintiff. Notice of said hearing was served by mail, to give the Plaintiff one working day of notice prior to hearing, when the Mississippi Rules of Civil Procedure require five. The judge hearing the motion denied the Plaintiff additional time to prepare for the hearing or to present a brief. A preliminary injunction was forthwith issued, which continued the finding that the Plaintiff had stolen client secrets by filing a lawsuit, and further enjoining Plaintiff from speaking to virtually every person in the world, without the Court's permission. Said injunction was made permanent on or about July 7, 1986.

82. Specifically included in the list of prohibited communicants for the

Plaintiff were "representatives of the Mississippi State Bar".

83. On or about July 1, 1986, Henry L. Thomas signed, and transmitted through the United States Mail, or otherwise caused to be delivered through channels of interstate commerce, a complaint against the Plaintiff to the Mississippi State Bar, now called the Mississippi Bar.

84. Said complaint accused the Plaintiff of stealing client secrets by filing a suit against the Plaintiff's former employers and agents thereof and using information at his disposal therefor.

85. Said complaint was date-stamped in the office of the Mississippi State Bar on July 7, 1986.

86. Said communication, if made through the United States mail, and any attendant communications over the interstate telephone wires, in furtherance of a plan to violate 18 U.S.C. section 1503 by harassing, oppressing and intimidating a federal witness, and denying him his civil rights of free speech, petition of government, due process and engaging in a lawful trade, profession or occupation, constitute communications for a fraudulent purpose in violation of 18 U.S.C. section 1341 and 18 U.S.C. section 1343, Mail Fraud and Wire Fraud, and further violate 18 U.S.C. section 1951 et. seq. by extortion and conspiracy affecting interstate commerce, all of which are also predicate acts for RICO claims.

87. On or about July 17, 1986, Michael B. Martz, Esq., General Counsel of the Mississippi State Bar caused to be served, on the Plaintiff, a copy of Henry Thomas's complaint, by Certified United

States Mail, which is another violation of 18 U.S.C. section 1341, Mail Fraud, by making a communication in furtherance of a fraudulent purpose, and of the Hobbs Act both in extortion and conspiracy, which at this point directly included a second quasi-state official and agency, the Mississippi State Bar, and all of which comprise predicate acts for RICO.

88. On or about the last Friday in July, 1986, Plaintiff searched the files of SMEPA v. Sandy Fork, in the office of United States District Court Clerk, in Hattiesburg, MS, where he found and copied Henry Thomas' affidavit of June 27, 1986.

89. The Plaintiff then made an "ex parte" motion to the Circuit Court of Forrest County, Mississippi, for permission to consult another attorney for assistance, and for permission to answer the charges made by Henry Thomas, against the Plaintiff, before the Mississippi State Bar. The Plaintiff informed the court of the federal affidavit filed in Hattiesburg, MS, which was the only one he was aware of at the time, and the pending bar complaint.

90. The Circuit Court denied the Plaintiff permission to either consult additional counsel or respond to the investigation of the Mississippi State Bar, in direct violation of the Plaintiff's First Amendment rights of free speech, association, petition of government, Sixth Amendment rights of a speedy and public trial and Fourteenth Amendment right of due process.

91. In August, 1986, at the direction of Michael B. Martz, General Counsel of the Mississippi State Bar, the Plaintiff called and wrote the Mississippi State Bar, from San Francisco, California, in

possible violation of the injunction of the Circuit Court of Forrest County, to explain that he was prohibited from answering Henry Thomas's allegations, by a fraudulent order which Henry Thomas had obtained from the Circuit Court of Forrest County, Mississippi, and that Henry Thomas had identified, by affidavit filed in federal court, the Plaintiff as a federal witness. Said letter included copies of the injunction and affidavit and is an exhibit in the files of the Mississippi State Bar to which the Plaintiff has been denied access.

92. Those communications between Michael B. Martz, General Counsel of the Mississippi State Bar in Jackson, Mississippi, and the Plaintiff in San Francisco, California, through the United States Mail and over the interstate telephone system, in furtherance of Defendants' fraudulent scheme to control the Plaintiff's testimony and presentation of evidence in a United States District Court, comprise further violations of 18 U.S.C. section 1341 and 18 U.S.C. section 1343 and predicate acts for RICO.

93. The last Monday in July, 1986, the Plaintiff was offered a temporary position in San Francisco, with the Pacific Gas and Electric Company, on condition that Plaintiff report for work at 8:00 A.M. PDT that Thursday, July 31, 1986.

94. SMEPA's attorneys, representing all defendants in the Plaintiff's suit then pending, arranged for the Circuit Court of Forrest County, MS, to call a settlement conference in Hattiesburg, MS, scheduled for the first Tuesday following September 30, 1986.

95. Defendants therein attempted to conceal the existence of and schedule for said conference.

96. The Plaintiff learned of said conference in spite of SMEPA's efforts to conceal it, as indicated by Mike Randolph's comment to the Plaintiff on September 30, 1986, at approximately 9:15 A.M. CDT, "Well, how did you even become aware of it?"

97. The same group of attorneys subsequently arranged such a hearing or conference before the Circuit Court of George County, Mississippi, in a claim against a prospective buyer, on behalf of the Singing River Electric Power Association. The defendant's attorney therein was not given notice of the conference and failed to appear; whereupon Singing River was awarded, on February 10, 1989, by Circuit Judge Darwin Maples, a default judgment and sanctions in the amount of approximately $100,000. Judge Maples has since been removed from the bench.

98. On September 30, 1986, the Plaintiff called Mike Randolph, Esq., who with Jack Land, Esq., and Vic Smith, Esq., of the law firm of Bryan, Nelson, Allen, Schroeder and Randolph in Hattiesburg, Mississippi, represented all defendants in the Plaintiff's suit, to determine the reason and necessity of the impending settlement conference.

99. The Plaintiff explained to Randolph that, the judge calling said conference would not return the Plaintiff's calls and that no time was available, on such short notice, to seek a postponement through other means of communication. The Plaintiff further explained that, the cost of attending said conference could exceed one-thousand

dollars for air fare and car rental, and probably would result in loss of the Plaintiff's first paying job in 20 months.

100. Randolph refused to cooperate in cancelling or postponing the conference or making arrangements to allow other means of communication. Randolph demonstrated that, while the Plaintiff could not talk to the judge calling the conference, Randolph could, contrary to Section 25 of the Mississippi Constitution of 1890 which reads:

> "No person shall be debarred from prosecuting or defending any civil cause for or against him or herself, before any tribunal of the state, by him or herself, or counsel or both."

101. In a series of five interstate telephone calls made on September 30 and October 1, 1986, in furtherance of the Defendants' fraudulent scheme to control the Plaintiff's testimony and presentation of evidence in a United States District Court, Randolph extorted, on behalf of SMEPA and all other defendants to the Plaintiff's suit, named and unknown, and particularly including the Defendant Aetna Insurance Company, a purported settlement, which Randolph repeatedly stated, and which the settlement documents and terms clearly show, was for the express purpose of controlling the Plaintiff's testimony before federal courts in the SMEPA/Sandy Fork controversy, as well as denying the Plaintiff his right to present his claims to a court of law.

102. Said telephone calls were made in furtherance of Defendants' plan to obstruct justice in violation of 18 U.S.C. section 1503 and constitute a wire fraud under 18 U.S.C. section 1343, and because the official power of the State

of Mississippi was doubly involved, through its Circuit Court and State Bar, said communications were violations of 18 U.S.C. section 1951 et. seq. Hobbs Act Extortion and further evidence a Hobbs Act Conspiracy in violation of 18 U.S.C. et. seq. 1951, all four being predicate acts for RICO recovery.

103. On or about December 26, 1986, the Mississippi State Bar notified the Plaintiff, through the United States Mail, that it would continue its persecution of the Plaintiff in spite of the purported settlement of the original dispute. This communication violated 18 U.S.C. section 1341 by communication for a fraudulent purpose through the United States Mail, and is also a RICO predicate act.

104. In March, 1987, the Plaintiff requested a Writ of Prohibition from the Supreme Court of Mississippi to halt the ongoing violation of federal law by the Mississippi State Bar. Said petition clearly stated and supported the Plaintiff's status as a federal witness and the fraud perpetrated by the complainant Henry Thomas which had been adopted as official action by the Mississippi State Bar.

105. The requested relief was denied and the Plaintiff was formally charged with theft of client secrets on November 13, 1987, for:

a. Communicating with Henry Thomas, the bar complainant;
b. Communicating with Bill M. Taylor, REA field auditor; and
c. Bringing suit against SMEPA.

106. Said formal charges were communicated to the Plaintiff through the United States mail, further violating 18

U.S.C. section 1341 and adding another predicate act for RICO.

107. Said charges were made in violation of the Sherman Anti-Trust Act, 15 U.S.C. section 1 for the express purpose of disbarring the Plaintiff and preventing him from engaging in the practice of law in retaliation for the Plaintiff's federally protected actions.

108. The Plaintiff sought and received protective and injunctive relief from the United States District Court of the Eastern District of Kentucky, London Division, on December 29, 1987.

109. The Mississippi State Bar voluntarily appeared in Kentucky on December 28, 1987 by filing, through the United States Mail, a motion "pro hac vice" and brief, a communication through the United States Mail in furtherance of a fraudulent and conspiratorial scheme to violate 18 U.S.C. section 1503 for the purpose of harassing, oppressing and intimidating a federal witness before a federal court, in violation of 18 U.S.C. section 1341, a predicate act for RICO.

110. The protective relief, among other things, ordered the Mississippi State Bar to withdraw its charges against Plaintiff because of violation of 18 U.S.C. section 1503, a predicate act for RICO.

111. In the process of opposing the Plaintiff's request for protection, James N. Compton, Esq., attorney for SMEPA from the law firm of Bryan, Nelson, Allen, Schroeder and Compton, in Gulfport, Mississippi, wrote:

> "In his latest effort to avoid the natural and expected consequences of his actions, Frank Anderson now files this Motion, seeking to prevent the Mississippi State Bar from proceeding

against him. Mr. Anderson's claim to protection as a federal witness is a fabrication. At no point have any of the parties in the instant litigation ever determined the need to take Mr. Anderson's deposition, nor is it even remotely possible that his testimony would ever be used at any future proceeding."

112. Said federal court order, dated December 29, 1987, granting protection to the Plaintiff is res judicata, and can be enforced under federal law nationwide upon anyone who has knowledge of the order, whether or not that person was a party to the proceeding from which it was issued.

113. The Mississippi State Bar never complied with the order, and instead contumaciously maintained:

"[T]hat the MSB was [not] a party to the proceeding before the Kentucky District Court, nor [had] it had been brought before that court by legal process. While we do not doubt the jurisdiction of the Kentucky court to protect witnesses in any proceeding before it from harassment or intimidation, it had no jurisdiction to require the MSB, a non-party, to take affirmative action in Mississippi..."

114. Within days of the federal court order protecting the Plaintiff, SMEPA and Sandy Fork chose to settle their dispute pending before the federal court.

115. As further evidence of fraud and collusion between SMEPA and Sandy Fork, the parties filed an Agreed Order, on November 10, 1986, wherein both sides agreed to call only those witnesses who would agree to be bound by a Confidentiality Agreement, which

certainly excluded the Plaintiff, and further, to return to the opposing parties all discovered documents and destroy all evidence with "attorney work product" which would otherwise be returned to the producing party at the end of litigation.

116. In clear coordination with the General Counsel of the Mississippi State Bar, the SMEPA/Sandy Fork Mining settlement was entered and the Mississippi State Bar moved for reconsideration of the December 29, 1987, order, on February 19, 1988.

117. Under federal law, a Motion to Reconsider is not a substitute for appeal, and does not upset the finality of the December 29, 1987, order.

118. As part of his argument to continue the relentless attack upon the Plaintiff, Michael B. Martz, Esq., General Counsel of the Mississippi State Bar, wrote in his brief:

> "[Mr. Anderson] chides the Bar by saying that it is 'fascinating' that it does not cite one case to support its position. The Bar submits that [Mr. Anderson's] argument is built on sand and is so weak that no case need be cited because of the reasons already discussed. Notwithstanding the fact that [Mr. Anderson] has wrongfully benefited from this Court's Order of December 29, 1987, he now submits that if this Court sets aside its original Order that it would work a severe injustice upon him. Anderson does not identify what the injustice would be. The only injustice that the Bar can think of involving Anderson would not be an injustice to Mr. Anderson but to the other 4700 active members of the Mississippi State Bar

who practice law in the State of Mississippi since if this Court does not set aside or withdraw its Order of December 29, 1987, a member of the Mississippi State Bar will be excused from answering charges of professional misconduct. True, an injustice would have occurred but it would have happened to the approximately 4700 lawyers licensed in Mississippi who took an oath to abide by the Rules of Professional Conduct and are doing their best to abide by them and, who, if they overstep the bounds of professional responsibility are answerable to such charges."

119. On March 22, 1988, the December 29, 1987, Order was vacated on the sole ground that the underlying suit had been settled and the court exercised its discretion to rule the need for prospective injunctive protection moot.

120. On December 14, 1988, the Complaint Tribunal, sitting by designation as Special Master of the Supreme Court of Mississippi, granted Plaintiff Summary Judgement, ruling that all charges brought by the Mississippi State Bar were groundless and incapable of justifying any disciplinary action against Plaintiff under any interpretation of the Rules of Professional Conduct. An order was signed dismissing all complaints against Plaintiff which became final and non-appealable to the Supreme Court of Mississippi on February 9, 1989.

121. The Plaintiff would show that his employment in San Francisco was terminated at the end of his initial contract at Thanksgiving, 1986, because of the continuing harassment of the Mississippi State Bar.

122. The Plaintiff thereupon obtained temporary employment with Louisiana Power & Light Company from approximately December 2, 1986, until approximately December 31, 1987, but was neither retained nor hired for a permanent position at least in part because of the continuing Mississippi Bar harassment consisting of the knowing prosecution of fraudulent quasi-criminal charges against a person known to be a federal witness.

123. The Plaintiff was unemployed and unable to find work from January 1, 1988, until July, 1988, at which time he became a laborer for a construction company. Said manual employment continued until February, 1989, when, because of a lack of work, the Plaintiff was dismissed.

124. The Plaintiff then worked on a farm, for two months, feeding cows, fencing pastures and doing other manual labor until he was offered a position operating machines and sweeping floors in a furniture plant which continued until April, 1990.

125. Because of the economic disaster suffered by the Plaintiff and his family, the Plaintiff's mother announced in April, 1988, that the Plaintiff was born out of wedlock and adopted, a secret she had maintained for 38 years, whereupon she entered a rest home in which she died June 30, 1989.

126. The Plaintiff's wife, upon hearing of his birth and adoption, stated: "You're nothing but a no-named Iowa bastard who can't get or keep a decent job." Then she took their son, and abandoned the Plaintiff, obtaining a divorce in Jackson, Mississippi, February 14, 1989.

COUNT I

127. The Plaintiff adopts and incorporates paragraphs 1-126 as if set out fully herein. The Plaintiff would show that the Defendants violated 18 U.S.C. section 1961 et. seq. by engaging in a continuing pattern of corrupt conduct through the predicate acts of violating 18 U.S.C. section 1341, Mail Fraud; 18 U.S.C. section 1343, Wire Fraud; 18 U.S.C. section 1951 et. seq., Extortion Affecting Interstate Commerce and Involving Public Officials; and 18 U.S.C. section 1951 et. seq., Conspiracy to Affect Interstate Commerce by Extortion Involving Public Officials; and 18 U.S.C. section 1503, Obstruction of Justice by Interference with a Witness before a United States District Court.

WHEREFORE, PREMISES CONSIDERED, the Plaintiff demands judgment against the Defendants, jointly and severally, under 18 U.S.C. section 1961, et. seq., (RICO) in the Compensatory Amount of $10,000,000 (Ten Million United States Dollars) said amount reflecting the approximate present value of the Plaintiff's lost earnings and benefits from the employment and professional opportunities destroyed by the Defendants herein, which, under RICO should be trebled with the additional award of attorney fees, expenses and court costs.

COUNT II

128. The Plaintiff adopts and incorporates paragraphs 1-127 as if set out fully herein. The Plaintiff would show that the Defendants conspired to drive the Plaintiff from the marketplace for legal services in Mississippi, in direct violation of 15 U.S.C. section 1, et. seq., by damaging his personal and

professional reputation through abuse of the disciplinary process of the Mississippi State Bar.

WHEREFORE, PREMISES CONSIDERED, the Plaintiff demands judgment against the Defendants, jointly and severally, under 15 U.S.C. section 1, et. seq., (Sherman Anti-trust Act), in a Compensatory Amount of $10,000,000 (Ten Million United States Dollars) reflecting the approximate present value of the Plaintiff's lost earnings and benefits from the professional and employment opportunities destroyed by the Defendants herein, which under the Sherman Anti-trust Act should be trebled with the additional award of attorney fees, expenses and court costs.

COUNT III

129. The Plaintiff adopts and incorporates paragraphs 1-128 as if set out fully herein. The Plaintiff would show that the Defendants acted to violate the Plaintiff's federal civil rights, by a conspiracy of two or more persons, in their coordinated efforts to prevent the Plaintiff from presenting his testimony and seeking relief in any court.

WHEREFORE, PREMISES CONSIDERED, the Plaintiff demands judgment against the Defendants, jointly and severally, in a Compensatory Amount of $10,000,000 (Ten Million United States Dollars) reflecting the approximate present value of the Plaintiff's lost earnings and benefits from the professional and employment opportunities destroyed by Defendants herein, and Punitive Damages in an unspecified and unlimited amount against the Defendants under 42 U.S.C. section 1985(3) for the conspiracy of each and all of the Defendants to violate the Plaintiff's civil rights of free speech, petition of government, due process,

association, practice of a lawful trade, profession and occupation, providing information to law enforcement authority, and life, liberty and property, with additional award of attorney fees, expenses and court costs under 42 U.S.C. section 1988.

COUNT IV

130. The Plaintiff adopts and incorporates paragraphs 1-129 as if set out fully herein. The Plaintiff would show that the Defendants violated his civil rights under color of state law by fraudulently causing and promoting his prosecution by the State of Mississippi, for exercise of the constitutional rights of aiding law enforcement authority, free speech, petition of government, due process, practice of a lawful trade, profession or occupation, and enjoyment life, liberty and property.

WHEREFORE, PREMISES CONSIDERED, the Plaintiff demands judgment against the Defendants, jointly and severally, in a Compensatory Amount of $10,000,000 (ten Million United States Dollars) reflecting the approximate present value of the Plaintiff's lost earnings and benefits from the professional and employment opportunities destroyed by the Defendants herein, and Punitive Damages in an unspecified and unlimited amount against the Defendants under 42 U.S.C. section 1983 for violating Plaintiff's civil rights of free speech, petition of government, due process, association, practice of a lawful trade, profession and occupation, providing information to law enforcement authority and life, liberty and property, under color of the law of the State of Mississippi, with the additional award of attorney fees,

expenses and court costs under 42 U.S.C. section 1988.

ADDITIONALLY, the Plaintiff prays for such other and further relief as this Court may deem appropriate and may award, in equity or at law, in its discretion.

RESPECTFULLY SUBMITTED:

(not executed)
Franklin V. Anderson, Pro Se
3420-19 Clairmont Avenue
Birmingham, Alabama 35222
(205)251-9831

State of Alabama )
)
Jefferson County )

I, the undersigned, a Notary Public in and for said County and State hereby certify that Franklin V. Anderson, personally appeared before me, and who being first identified and placed under oath, states and declares the above statements to be the truth to the best of his knowledge, information and belief and that he executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this the ___ day of January, 1993.

(not executed)
Notary Public

(file stamped copy dated 1-11-93)

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
Southern Division

Case No. 93-P-00093-S

FRANKLIN V. ANDERSON, )
Plaintiff; )
-vs.- )
AETNA INSURANCE CO., et al., )
Defendants. )

ORDER

This case is before the court on motions to dismiss brought by all defendants. Defendants Southern Mississippi Electric Power Association and Dixie Electric Power Association move in the alternative to transfer this case to the Southern District of Mississippi.

To the extent the plaintiff's complaint states any claims against Defendant Aetna Insurance Company, they are barred by the applicable statutes of limitations. Accordingly, Defendant Aetna Insurance Company's motion to dismiss is hereby GRANTED and Aetna Insurance Company is DISMISSED with prejudice.

As to the remaining defendants, venue is proper in the Southern District of Mississippi. Accordingly, this court declines to rule on the motions to dismiss brought by the remaining defendants and pursuant to 28 U.S.C. section 1404(a), this case is hereby TRANSFERRED to the Southern District of Mississippi, Jackson Division.

This the 10th day of March, 1993.

/s/SAM C. POINTER, JR.
United States District Judge

(Entered 3-11-93)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

Case No. 3:93CV-124(W)(N)

Franklin V. Anderson, an individual,

Plaintiff,

vs.

South Mississippi Electric Power Association, a corporation; Dixie Electric Power Association, a corporation; and The Mississippi Bar, a quasi-agency of the Supreme Court of the State of Mississippi,

Defendants.

DEPOSITION OF FRANKLIN V. ANDERSON, PRO SE

Taken at the Mississippi Bar Center, 643 North State Street, Jackson, Mississippi, beginning at 10:00 a.m. on June 15, 1993.

Reported by: Peggy Roberts
Shorthand Reporter
Notary Public

Excerpts from the Deposition of Franklin V. Anderson taken on June 15, 1993.

p. 12, lns. 9-25 to p. 13, lns. 1-13:

"Q. Mr. Anderson, have you presented your evidence or allegations of alleged blackmail to any other prosecutor besides to someone in Birmingham?

A. I originally discussed the matter with the United States Attorney and the FBI here in Jackson. The Federal Bureau of Investigation told me, approximately, September 29, 1986, 'Mr. Anderson, I don't care how many Federal agencies you've assisted. I don't care that you are a Federal witness. I don't care what information you have given to any Federal agent. I don't care that your life has been threatened. I don't care that your wife has been threatened. I don't care that you are on the verge of losing everything that you own. You are not my Federal witness. I did not call you. I did not select you. I have no duty, whatsoever, to protect you.'

Q. Who was speaking on behalf of the U.S. Attorney?

A. This was the special agent in charge of the FBI office here in Jackson, Mississippi. I believe his name was J.E. Murphy.

Q. So, to the best of your knowledge, the special agent who received the information you have used as the basis of this complaint decided not to prosecute?

A. Special agent, in concert with George Phillips, the United States Attorney."

p. 151, lns. 22 to p. 152, ln. 21:

"Q. The extent of your allegation of coercion by them is the telephone conversation that you had with Michael Randolph?
A. No, sir. The orders of the Circuit Court of Forrest County, which have been concealed so far in this case, prohibited me from speaking to a United States Federal Court. Those orders prohibited me from speaking to the Mississippi Bar. They prohibited me from speaking to the Federal Bureau of Investigation.
Q. But you have done all of those things.
A. I certainly have, and I dare anybody to try anything because I have done it.
Q. So the order in and of itself as far as you were concerned really had no effect. You have done everything that you were prohibited from doing.
A. Yes, sir, including writing the President of the United States.
Q. You wrote the President, and you wrote the Attorney General, and you wrote to the REA manager and the administer. You've told them all, right?
A. Yes, sir."